

October 30, 2002

**Ex Parte**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., TW-B204  
Washington, D.C. 20554

Re: Application of Qwest Communications International, Inc. To Provide In-Region  
InterLATA Services in Colorado, Idaho, Iowa, Montana, Nebraska, North  
Dakota, Utah, Washington, and Wyoming

Dear Ms. Dortch:

In its October 15, 2002 comments, Commissioner Susan E. Wefald of the North Dakota Public Service Commission attached a concurring opinion which stated that the North Dakota Legislature has not yet passed legislation to establish the funding the NDPSC needs to monitor Qwest's performance in the future to prevent backsliding and to ensure that the doors to competition remain open.

While the Performance Assurance Plan offered by Qwest for North Dakota provides that Tier 2 payments and a portion of Tier 1 payments be made to the state, we believe the NDPSC cannot utilize the payments without authorization from the North Dakota Legislature. The Legislature will convene again from January 2003 to April 2003 and will consider a bill proposal under which the NDPSC could use the funds collected under the performance assurance plan but could not spend more than \$100,000 per biennium without receiving prior approval from the budget section of the legislative council. If the bill is adopted with the proposed emergency clause, the fund could become available before August 1, 2003, which is the usual effective date for adopted legislation.

**PUBLIC SERVICE COMMISSION**

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**Anthony T. Clark**  
Commissioner

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**Susan E. Wefald**  
President

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**Leo M. Reinbold**  
Commissioner

Attachment